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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/725,486	12/03/2003	Bradley J. Field	ACE-18472	3987

10361 7590 05/07/2004

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EXAMINER

WUJCIAK, ALFRED J

ART UNIT	PAPER NUMBER
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3632

DATE MAILED: 05/07/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/725,486

Applicant(s)

FIELD ET AL.

Examiner

Alfred Joseph Wujciak III

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 December 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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DETAILED ACTION

This is the first Office Action for the serial number 10/725,486, QUICK RELEASE SUPPORTING APPARATUS FOR A CANISTER, filed on 12/3/03.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 8-10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 8, line 1, "mounting means" cites combination/subcombination problem because "mounting means" is not positively cited in the preamble of claim 1.

Claims 9-10 are rejected as depending on rejected claim 1.

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

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A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1-4 and 11 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-6 of U.S. Patent No. 6,543,736 to Field. Although the conflicting claims are not identical, they are not patentably distinct from each other because U.S. Patent # 6,543,736 teaches a quick release supporting apparatus comprising a mounting a mounting bracket (12) mountable by mounting means to the rigid support member (14). The mounting bracket is mountable to a rigid canister retaining frame (40). The retaining frame defining a rigid cavity having an opening. The retaining frame provides a means (46) for carrying of the frame. The frame includes at least one collar (42'). The apparatus includes at least one latch (20) cooperating between the mounting bracket and the retaining frame. The apparatus further includes a manually operable release actuator (32) cooperating with the at least one latch. The at least one collar comprises first and second collars (42' and 44') mounted parallel and spaced apart, corresponding first and second apertures defined by the collars being co-axial along a longitudinal axis of the canister when mounted journalled in the collars.

Claims 5-7 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-6 of U.S. Patent No. 6,543,736 to Field in view of US Patent # 5,071,100 to Sweeny.

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US Patent # 6,543,736 teaches the mounting bracket having first and second opposite ends but fails to teach the mounting bracket includes an elongated rigid base having a mating surface recessed therein, plate having first and second ends and the first end having a fixed hook. Sweeny teaches the mounting bracket (12) having an elongated rigid base (70) having a mating surface recessed therein, plate (16) having first and second end and first end (30) having a fixed hook (36). It would have been obvious for one of ordinary skill in the art at the time the invention was made to have modified US Patent # 6,543,736's mounting bracket with the elongated rigid base and first end with fixed hook as taught by Sweeny to provide better security for retaining the canister on the mounting bracket.

Claims 8-10 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-6 of U.S. Patent No. 6,543,736 to Field in view of Sweeny and in further view of US Patent # 5,098,054 to Dyer.

US Patent # 6,543,736 teaches the mounting means but fails to teach the mounting means includes an elongated member, clamping means and a pair of linear and parallel oppositely disposed flanges. Dyer teaches the mounting means (30) having an elongated member. The elongated member is clamped to the rigid support member (36, figure 4) by a clamping means (58). The elongated member comprises a pair of linear and parallel oppositely disposed flanges (164) for sliding mating into and along a correspondingly shaped channel in the rigid support. It would have been obvious for one of ordinary skill in the art at the time the invention was made to have modified US Patent # 6,543,736's mounting means with elongated member, clamping means and a pair of linear and parallel oppositely disposed flanges as taught by Dyer to provide a

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support for the mounting means to prevent from rotating about the rigid support member when the canister is placed in the mounting bracket.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

US Patent # 6,170,518 to Ratelle
US Patent # 6,059,245 to Hermansen et al.
US Patent # 4,383,528 to Eppolito
US Patent # 4,438,764 to Eppolito
US Patent # 4,586,687 to Ziaylek, Jr.
US Patent # 4,606,521 to Williams
US Patent # 4,770,428 to Sugiyama
US Patent # 4,848,714 to Ziaylek, Jr. et al.
US Patent # 4,860,986 to Couzens
US Patent # 5,039,902 to Schwarz
US Patent # 5,067,626 to Leumi
US Patent # 5,123,409 to Sheffield et al.
US Patent # 2,615,238 to Highwood
US Patent # 3,240,407 to Boak
US Patent # 3,310,270 to Ciano
US Patent # 3,817,435 to De Luca et al.

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US Patent # 5,249,702 to Topp et al.

US Patent # 5,288,001 to Locarno

US Patent # 5,335,954 to Holub et al.

US Patent # 5,354,029 to Ziaylek, Jr. et al.

US Patent # 5,362,022 to McLoughlin et al.

US Patent # 5,472,167 to Shillington et al.

US Patent # 5,810,309 to Augustine et al.

US Patent # 5,887,836 to Back

Back, Augustine et al, Shillington et al., McLoughlin et al., Ziaylek, Jr. et al., Holub et al., Locarno, Topp et al., De Luca et al., Ciano, Boak, Highwood, Sheffield et al., Leumi, Schwarz, Couzens, Sugiyama, Williams, Eppolito, Hermansen et al. and Ratelle teach a support for supporting container.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alfred Joseph Wujciak III whose telephone number is (703) 306-5994. The examiner can normally be reached on 8am-4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Leslie A Braun can be reached on 703 308 2156. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Alfred Joseph Wujciak III

Examiner

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4/30/04



LESLIE A. BRAUN
SUPERVISORY PATENT EXAMINER